

Dear Senators VICK, Johnson, Stennett, and
Representatives GIBBS, Lickley, Rubel:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Department of Parks and Recreation:

IDAPA 26.00.00 - Notice of Omnibus Rulemaking - Proposed Rule (Docket No. 26-0000-2100).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 12/02/2021. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/30/2021.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Resources & Conservation Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: November 12, 2021

SUBJECT: Department of Parks and Recreation

IDAPA 26.00.00 - Notice of Omnibus Rulemaking - Proposed Rule (Docket No. 26-0000-2100)

Summary and Stated Reasons for the Rule

The Department of Parks and Recreation submits notice of proposed rule at IDAPA 26.00.00 - Notice of Omnibus Rulemaking. According to the department, the rulemaking publishes these rule chapters previously submitted to and reviewed by the Legislature:

- 26.01.03, Rules Governing Recreational Registration Program Vendors;
- 26.01.21, Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park;
- 26.01.22, Rules Governing Cooperating Associations;
- 26.01.24, Rules Governing the Administration of the Sawtooth National Recreation Area Special License Plate Funds;
- 26.01.30, Idaho Safe Boating Rules;
- 26.01.31, Rules Governing the Administration of the Idaho Department of Parks and Recreation State and Federal Grant Funds;
- 26.01.34, Idaho Protection Against Invasive Species Sticker Rules; and
- 26.01.37, Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles.

Negotiated Rulemaking/Fiscal Impact

The department states that negotiated rulemaking was not conducted "because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the

Paul Headlee, Deputy Director Legislative Services Office	Kristin Ford, Manager Research & Legislation	Keith Bybee, Manager Budget & Policy Analysis	April Renfro, Manager Legislative Audits	Glenn Harris, Manager Information Technology
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Boise, Idaho 83720-0054

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citizens of Idaho and to protect their health, safety, and welfare." The department states that there is no fiscal impact anticipated. The department states that the rules do not impose a fee or charge, or increase a fee or charge.

Statutory Authority

The rulemaking appears to be authorized pursuant to sections 67-4223, 67-4238, 67-7001, 67-7002, 67-7008A, 67-7103, 67-7122, 67-7125, and 67-7132, Idaho Code.

cc: Department of Parks and Recreation
Anna Canning

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

DOCKET NO. 26-0000-2100

NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-4223, 67-4238, 67-7001, 67-7002, 67-7008A, 67-7103, 67-7122, 67-7125, and 67-7132, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposed rulemaking publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 26, rules of the Department of Parks and Recreation:

IDAPA 26

- 26.01.03, *Rules Governing Recreational Registration Program Vendors;*
- 26.01.21, *Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park;*
- 26.01.22, *Rules Governing Cooperating Associations;*
- 26.01.24, *Rules Governing the Administration of the Sawtooth National Recreation Area Special License Plate Funds;*
- 26.01.30, *Idaho Safe Boating Rules;*
- 26.01.31, *Rules Governing the Administration of the Idaho Department of Parks and Recreation State and Federal Grant Funds;*
- 26.01.34, *Idaho Protection Against Invasive Species Sticker Rules;* and
- 26.01.37, *Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles.*

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2022 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rule(s) being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Seth Hobbs, (208) 514-2427.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 20, 2021.

Seth Hobbs, Rules Review Officer
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue, Boise, ID 83716

P.O. Box 83720, Boise, ID 83720-0065
Phone: (208) 514-2427
seth.hobbs@idpr.idaho.gov

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26.01.03 – RULES GOVERNING RECREATION PROGRAMS

000. LEGAL AUTHORITY.

The Parks and Recreation Board, State of Idaho, acting pursuant to the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and its powers and responsibilities under the Parks and Recreation Act, Title 67, Chapter 42, Idaho Code, adopted the following rules. These rules are promulgated under the Department's authority to administer the following Acts: Recreational Activities, Sections 67-7101 through 67-7133, Idaho Code, and Idaho Safe Boating Act, Section 67-7001 et seq., Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter are cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.03, "Rules Governing Recreation Programs." ()

02. Scope. These rules are intended to set forth the procedures for vendors to apply to sell Recreation Program products and the formula for off-highway vehicle law enforcement fund distribution. ()

002. -- 009. (RESERVED)

010. DEFINITION OF TERMS.

01. Department. The Idaho Department of Parks and Recreation. ()

02. Memorandum of Agreement. A contract between the Department and the Vendor. ()

03. Payment in Lieu of Taxes. The Payments in Lieu of Taxes (PILT; 31 U.S.C. §§6901-6907) program provides compensation for certain tax-exempt federal lands, known as entitlement lands. PILT payments are made annually to units of general local government – typically counties – that contain entitlement lands. ()

04. Recreation Program Products. Products include, but are not limited to, certificates of number, permits, user certificates, and stickers. ()

05. Vendor. Any business or agency authorized to sell products. ()

011. – 099. (RESERVED)

100. CRITERIA FOR APPLYING FOR VENDORSHIP.

A prospective vendor may apply to sell one (1) or more types of products. A prospective vendor may make a request to the Department at any time by phone, mail, or in person to receive a copy of the applicable vendor Memorandum of Agreement. The Memorandum of Agreement must be signed and returned to the Department for approval. ()

101. – 199. (RESERVED)

200. NOTIFICATIONS AND TIME LIMITS.

01. Action on Application. The Department must provide written notification within thirty (30) days following receipt of a signed memorandum of agreement as to the approval or denial of same. This decision for approval or denial is based on the ability of the business or agency to sell recreation program products. ()

02. Notification. If approved, a fully executed copy of the vendor memorandum of agreement will be returned to the vendor. If denied, notification will outline reasons for such denial. ()

201. -- 499. (RESERVED)

500. OFF-HIGHWAY LAW ENFORCEMENT FUND DISTRIBUTION FORMULA.

01. Formula. As set forth in Section 7126, Idaho Code, the Department distributes the funds in the off-highway vehicle law enforcement fund based on the following formula: ()

- a.** Total federal acres with reference to the Payments in Lieu of Taxes (PILT) number for each eligible county minus large tracts of land not open to off-highway vehicle use. The result is the total off-highway vehicle opportunity on federal public land for that county. ()
- b.** Calculate the percentage of the total off-highway vehicle opportunity on federal public land for each eligible county as compared to the entire state. ()
- c.** Multiply this percentage by zero point six (0.6) to get sixty percent (60%) of the value. ()
- d.** Calculate the percentage of off-highway vehicle certificate of number designations for each eligible county as compared to the entire state. ()
- e.** Multiply this percentage by zero point four (0.4) to get forty percent (40%) of the value. ()
- f.** Add the sixty percent (60%) value from the total off-highway vehicle opportunity on federal public land to the forty percent (40%) value of the off-highway vehicle certificates of number. This total will be the percentage of the off-highway vehicle law enforcement funds for which the individual county is eligible. ()

501. -- 999. (RESERVED)

**26.01.21 – RULES GOVERNING LEASING PRACTICES AND PROCEDURES
FOR RECREATIONAL RESIDENCES WITHIN HEYBURN STATE PARK**

000. LEGAL AUTHORITY.

These rules are promulgated by the Idaho Park and Recreation Board pursuant to Idaho Code, Section 67-4223 and are intended to further define and make specific Idaho Code, Section 67-4223 as it pertains to the administration of recreational residence site leases within Heyburn State Park. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.21, “Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park.” ()

02. Scope. This chapter establishes rules to effectuate the purposes of and aid in the administration of recreational residence site leases within Heyburn State Park. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

As used in this chapter: ()

01. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the Governor. ()

02. Department. The Idaho Department of Parks and Recreation. ()

03. Director. The director and chief administrator of the Department, or the designee of the director. ()

04. Lease. The contract defining the rights and duties of the parties regarding a recreational residence site within Heyburn State Park. ()

05. Lease Payment. The annual fee paid by a Lessee to the Lessor. ()

06. Lessee. A person who holds a valid lease for a recreational residence site within Heyburn State Park. ()

07. Lessor. The Board or it’s authorized representative. ()

08. Recreational Residence Site. A particularly described parcel of real property, located within Heyburn State Park and owned by the Department, which has been made available to private individuals through a lease for the purpose of constructing and maintaining a recreational residence. ()

011. -- 049. (RESERVED)

050. LEASE TERM.

01. Cottage Site Leases. Leases are issued for a term not to exceed ten (10) years commencing upon January 1 of the year the lease is entered into and ending upon December 31 of the final year of the term. ()

02. Float Home Moorage Site Leases. Lease of a float home moorage site may be issued for a period of up to thirty (30) years commencing upon January 1 of the year the lease is entered into and ending upon December 31 of the final year of the term. ()

051. -- 069. (RESERVED)

070. RENEWAL.

No lease may include any right of renewal, whether expressed or implied. ()

071. -- 089. (RESERVED)

090. LEASE RATES.

01. Base Rates. Base lease rates are set so as to provide the Department a reasonable return based upon the fair market value of the lease site. ()

02. Lease Rate Adjustments. The lease provides for annual adjustments. ()

091. -- 109. (RESERVED)

110. OCCUPANCY.

01. Recreational Occupancy. With the exception of those leases that have been grandfathered for full-time occupancy, the leased premises may be used solely for recreational residential purposes. Use may be intermittent or seasonal but in no event may the residence be occupied in excess of six (6) months in any twelve (12) consecutive months or more than one hundred eighty five (185) days in any three hundred sixty five (365) day cycle. ()

02. Full-Time Occupancy. Leases that have been grandfathered for full-time occupancy revert to recreational residential purposes when they are transferred, whether by gift, sale, or devise. ()

111. -- 129. (RESERVED)

130. USE.

01. Commercial Use Prohibited. Leased premises may not be used for commercial purposes. This includes, but is not limited to, short- or long-term rental for profit, and the conduct of any enterprise of a commercial nature. ()

02. Public Use. Heyburn State Park is a public facility that is managed for the use and benefit of the public. Recreational residence leases reserve to the Department and its agents the right of ingress and egress across lease premises. Recreational residence leases preserve the right of the general public to cross the leased premises for any lawful purpose. ()

131. -- 999. (RESERVED)

26.01.22 – RULES GOVERNING COOPERATING ASSOCIATIONS

000. LEGAL AUTHORITY.

These rules, promulgated by the Idaho Parks and Recreation Board pursuant to Section 67-5201, et seq., Idaho Code, and Section 67-4223, Idaho Code, are intended to further define and make specific Section 67-4238, Idaho Code, which deals with establishment of cooperating associations. ()

001. -- 009. (RESERVED)

010. DEFINITIONS.

When used in these rules, the terms set forth below have the following definitions: ()

01. Agreement. A written document between the association and the Department which defines a specific facility, terms, and conditions of operation to which both parties agree. ()

02. Cooperating Association. Any private, nonprofit organization that enters into an agreement with the Department to aid the interpretive, educational, and related visitor service activities of a state park facility in which the cooperating association is authorized to function. ()

03. Department. The Idaho Department of Parks and Recreation. ()

04. Director. The director of the Idaho Department of Parks and Recreation or his designee. ()

05. State Park Facility. A structure or area within an Idaho state park, the entire state park, state park region or state park system. ()

011. -- 049. (RESERVED)

050. PURPOSE OF COOPERATING ASSOCIATIONS.

01. Generally. The purpose of a cooperating association is to assist the Department at a local, regional, or statewide level to enhance the interpretive, educational, and/or related visitor services activities. ()

02. Authorized Organizations and Activities. The Department may enter into agreements with private nonprofit scientific, historic or educational organizations for the purpose of providing interpretive services to state park facilities in Idaho. Said associations may provide such services as educational or interpretive material for sale; acquire display materials and equipment for exhibits; provide support for park interpretive programs or environmental education programs; support park facility libraries; provide support for other interpretive projects related to a specific park facility; provide fund raising activities within the park facility; or other specifically approved activities. All proposed services or activities must receive approval of the director prior to the activity taking place. ()

051. -- 099. (RESERVED)

100. CRITERIA FOR COOPERATING ASSOCIATIONS.

01. Number Limited. No more than one (1) association may be created on behalf of any park. ()

02. Requirements. Associations are encouraged to incorporate under the laws of the state of Idaho and to attain nonprofit, tax-exempt status under provisions of Section 501(c)3 of the federal Internal Revenue Service tax code, but it is neither a requirement nor a responsibility of the Department. Requirements of an association are that they have, as a minimum, a chairman, vice-chairman, secretary and treasurer, who may also serve on the board of directors of the association. Each association determines the number of association board members. Summary minutes of official association meetings must be forwarded to the Department within thirty (30) days after the meeting. A department representative, designated by the director, is an ex-officio member of the board. Association membership dues may be established by the association. ()

101. -- 149. (RESERVED)

150. DEPARTMENT ASSISTANCE TO ASSOCIATIONS.

If the association desires, the Department, in its discretion, may provide assistance to the association on an incidental basis. The Department may provide space at a state park facility for the interpretive materials provided by the

association. ()

151. -- 199. (RESERVED)

200. AGREEMENT REQUIRED/PRIOR APPROVAL OF ACTIVITIES REQUIRED.

An agreement must be signed between officials of the association and the Department prior to an association undertaking activities enumerated under Subsection 050.02 of this chapter. Agreements signed by officials of the association and the Department are binding on successor officers of the association and the Department. Association activities at a park may not conflict with park resources or objectives, must comply with all applicable statutes, rules and regulations, and are subject to prior approval of the director. Decisions of the director are deemed to be a final decision. ()

201. -- 249. (RESERVED)

250. DISPOSITION OF ASSETS AND PROFITS.

01. Profits to Benefit Park Facilities. Any profits received from the sale of publications or other materials provided by an association pursuant to an agreement entered into under these rules must be used by the association for interpretive or educational purposes to benefit the state park facility for which the association provides services. ()

02. Dissolution of Association. In the event that the association disbands, dissolves, or the agreement between the association and the Department is terminated for any reason whatsoever, all profits that have accrued to the association as a result of the association/Department agreement must be donated to the Department. The Department will use such assets or profits for interpretive and educational purposes at the designated state park facility. ()

251. -- 299. (RESERVED)

300. ACCOUNTABILITY.

01. Annual Statements Required. An annual financial statement of the association must be prepared and presented to the department director by May 1 of each year. ()

02. Department Not Liable. In no event will the Department be held liable for any debts incurred by the association. ()

301. -- 349. (RESERVED)

350. TERMINATION.

An agreement between an association and the Department may be terminated upon thirty (30) days written notice by either party to the other at the address for "Notices" listed in the agreement. ()

351. -- 999. (RESERVED)

**26.01.24 – RULES GOVERNING THE ADMINISTRATION OF THE SAWTOOTH NATIONAL
RECREATION AREA SPECIAL LICENSE PLATE FUNDS**

000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-4223(a), Idaho Code, to adopt, amend, or rescind rules as may be necessary for proper administration of the Department and its programs. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.24, “Rules Governing the Administration of the Sawtooth National Recreation Area Special License Plate Funds.” ()

02. Scope. This chapter establishes procedures for the administration of the Sawtooth National Recreation Area special plate funds, received pursuant to Section 49-419A, Idaho Code, including requirements for project application, eligibility, review, award and management. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Applicant. A public entity, user group, organization, or individual that identifies a need for a project and applies for a sawtooth national recreation area special license plate fund grant through the Department. ()

02. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the governor. ()

03. Department. The Idaho Department of Parks and Recreation. ()

04. Director. The director and chief administrator of the Department or the designee of the director. ()

05. Park and Recreation Fund. That fund created in Section 67-4225, Idaho Code. ()

06. Project. Any effort in compliance with applicable rules and policies governing the use of Sawtooth National Recreation Area special license plate funds. ()

07. Sawtooth National Recreation Area (SNRA) Special License Plate Funds. Those funds derived from the sale and purchase of Sawtooth National Recreation Area special license plates pursuant to Section 49-419A, Idaho Code. ()

011. -- 049. (RESERVED)

050. ELIGIBLE APPLICANTS FOR SAWTOOTH NATIONAL RECREATION AREA SPECIAL LICENSE PLATE FUNDS.

Any public entity or private group, organization or individual which provides evidence of its ability to implement or operate and maintain the project following the completion of the project. ()

051. -- 099. (RESERVED)

100. ELIGIBLE PROJECTS.

01. Determination of Eligibility. The director determines eligibility of projects in accordance with Section 49-419A, Idaho Code, and this chapter. ()

02. Eligible Projects. Eligible projects are limited to planning, design, development, construction, repair and maintenance of: ()

a. Motorized and non-motorized trails; ()

b. Camping facilities; ()

- c. Bridges located on a motorized or non-motorized trail; ()
- d. Restrooms used primarily by recreationists; ()
- e. Parking areas used primarily to access outdoor recreation facilities; ()
- f. Boat launch facilities; ()
- g. Boat docks; ()
- h. Interpretive centers, facilities and services for recreationists including informational and directional signs; ()
- i. Emergency medical facilities and services for recreationists; and ()
- j. Unpaved roads leading to recreation areas. ()

03. Location of Eligible Projects. All eligible projects must be located within the SNRA and must be open to the public regardless of race, color, religion, national origin, gender, age or disability. ()

101. -- 149. (RESERVED)

150. APPLICATION PROCEDURES.

To be considered for a grant, an applicant must file with the Department a memorandum of understanding in a form prescribed by the director and bearing original signatures no later than January 1 of each year. ()

151. -- 199. (RESERVED)

200. DISBURSEMENT OF FUNDS.

The Department will remit to the applicant at least eighty-five percent (85%) of all moneys collected pursuant to Section 49-419A, Idaho Code, not later than January 25, April 25, July 25 and October 25 of each year. The Department retains up to fifteen percent (15%) to cover costs related to the administration of this chapter. ()

201. -- 249. (RESERVED)

250. EXPENDITURE OF FUNDS.

The applicant must expend all funds received pursuant to this chapter within two (2) years of receipt. ()

251. -- 299. (RESERVED)

300. RETURN OF FUNDS.

Any funds required by these rules to be returned from the applicant to the Department will be credited to the park and recreation account and disbursed on or before the dates provided in Section 150 of this chapter. ()

301. -- 349. (RESERVED)

350. DOCUMENTATION.

01. Allowable Costs. Applicable Office of Management and Budget (OMB) cost principles must be followed in determining reasonable and allowable costs. ()

02. Documentation and System of Internal Controls. The applicant must maintain a system of internal controls in order to identify the source and disbursement of funds provided for all project costs by project. Accounting records must be supported by source documentation such as vouchers, canceled checks, invoices, payroll, time and attendance records, contract and sub-grant award documents, and other required billing forms. ()

03. Record Retention. The applicant must retain all financial information referenced in these rules

regarding a project for a time period of three (3) years from the date of the receipt of funds, or until the satisfactory completion of any litigation or audit concerning the project, whichever date is later. ()

04. Audit Authority. The Department has the right of access to any pertinent books, documents, papers, or other records of applicant which are pertinent to these rules, in order to make audits, examinations, excerpts, and transcripts. An audit may result in the disallowance of costs incurred by the applicant and the establishment of a debt (account receivable) due the Department. ()

351. -- 399. (RESERVED)

400. MAINTENANCE STANDARDS.

The applicant must ensure facilities developed, constructed or repaired with SNRA special license plate funds are maintained and operated in a condition equivalent to that existing when it was funded, normal wear and tear excepted. Maintenance standards must be adopted by the applicant during the application phase of the grant. ()

401. -- 449. (RESERVED)

450. PROJECT CONVERSIONS.

No project funded by SNRA special license plate funds may, without prior approval of the Department, be converted to uses other than for the authorized purpose of the original grant. The Department must approve a conversion only when the SNRA special license plate funds expended on the project can be returned to the Department, or the applicant can provide an immediate substitution of other projects of at least equal current fair market value and of reasonable equivalent usefulness and location. ()

451. -- 499. (RESERVED)

500. PURCHASE AND BIDDING REQUIREMENTS.

All local, state and federal laws pertaining to the expenditure of SNRA special license plate funds must be followed by the applicant. ()

501. -- 999. (RESERVED)

26.01.30 – IDAHO SAFE BOATING RULES

000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-7002, Idaho Code to promulgate rules to effectuate the purposes of and aid in the administration of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.30, “Idaho Safe Boating Rules.” ()

02. Scope. This chapter establishes rules to effectuate the purposes of and aid in the administration and enforcement of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

As used in this chapter: ()

01. Duly Constituted Water Ski School. A profit-making business that files Idaho income tax returns in accordance with the Idaho Income Tax Act (Title 63, Chapter 30, Idaho Code) substantiating that instruction of water ski students for the making of a profit is or was being performed by the instructor. ()

02. Lifeboat. A vessel that: ()

a. Is owned by the owner of a vessel for which a valid certificate of number has been issued; ()

b. Is kept with the numbered vessel during normal operation of the numbered vessel; and ()

c. Is used solely in life threatening situations. ()

03. Motorboat. Any vessel propelled by machinery, which is powered by an energy source other than human effort, whether or not such machinery is the principal source of propulsion. ()

04. Sailboat. Any vessel equipped with mast(s) and sail(s), dependent upon the wind to propel the vessel in the normal course of operation of the vessel. ()

05. Sailboard. A surfboard type sailboat with no freeboard and using a triangular sail on a swivel mounted mast not secured to a hull by guys or stays. ()

06. Tender. A vessel equipped with propulsion machinery of less than ten (10) horsepower that: ()

a. Is owned by the owner of a vessel for which a valid certificate of number has been issued; ()

b. Displays the number of that numbered vessel followed by the suffix “1”; and ()

c. Is used for direct transportation between the numbered vessel and the shore and for no other purpose. ()

07. Watercraft. Those devices designed as a means of transportation on water. The following devices are not considered watercraft: ()

a. Diver’s aids operated and designed primarily to propel a diver below the surface of the water; and ()

b. Non-motorized devices not designed as a means of transportation on water, such as inflatable air mattresses, single inner tubes, and beach and water toys. ()

c. Float houses as defined in Section 67-7003(8), Idaho Code. ()

08. Whistle or Horn. Any sound producing appliance capable of producing the prescribed blasts and which complies with the specifications of 33 U.S.C. Section 2001 et seq. and 33 CFR Section 86.01 et seq. ()

09. Other Definitions. Other definitions set forth in the Idaho Safe Boating Act (Title 67, Chapter 70, Idaho Code) are incorporated herein by reference. ()

011. -- 049. (RESERVED)

050. PERSONAL FLOTATION DEVICES (PFD'S).

01. Personal Flotation Devices Required. Except seaplanes, sailboards, and as provided in Subsections 050.03 and 050.04 of this chapter, no person may operate or permit to be operated any vessel on the waters of this state without carrying on board personal flotation devices (Type I life preservers, Type II buoyant vests, Type III special purpose marine buoyant devices, Type IV buoyant cushions or ring life buoys, or Type V restricted use devices) as follows: ()

a. Recreational vessels (used for non-commercial use) less than sixteen (16) feet in length, and canoes and kayaks of any length, must have one (1) type I, II, or III wearable personal flotation devices of a suitable size for each person on board. ()

b. Recreational vessels sixteen (16) feet in length and over, except as stated in Subsection 050.01.a. of this chapter, must have one (1) type I, II, or III wearable personal flotation device of a suitable size for each person on board and, in addition, one (1) type IV throwable device. ()

c. Commercial vessels less than forty (40) feet in length not carrying passengers for hire must have at least one (1) Type I, II, or III wearable personal flotation device of a suitable size for each person on board. ()

d. Commercial vessels carrying passengers for hire and commercial vessels forty (40) feet in length or longer not carrying passengers for hire must have at least one Type I wearable personal flotation device of a suitable size for each person on board. ()

e. Commercial vessels twenty-six (26) feet in length or longer must have at least one (1) Type IV throwable ring life buoy in addition to other requirements. ()

f. Children fourteen (14) years of age and younger, onboard vessels nineteen (19) feet or less, must wear an approved flotation device when the vessel is underway. ()

02. Location and Condition. All personal flotation devices required by Section 050 of this chapter must be readily accessible to persons on board and be of good and serviceable condition. When aboard a personal watercraft (Jet Ski, Wave Runner, etc.) or being towed by a boat (water ski, wake board, knee board, tube, etc.), an approved flotation device must be worn to be considered readily accessible. All such devices must be approved by the U.S. Coast Guard, and must be marked in accordance with U.S. Coast Guard standards. All such devices must comply with the construction and design standards set forth by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and applicable federal regulations. ()

03. Alternative PFD Requirement. A Type V personal flotation device may be carried in lieu of any required personal flotation device if U.S. Coast Guard approved for the activity engaged in. ()

04. Exemptions. ()

a. Racing shells, rowing sculls and racing kayaks are exempt from the requirements of Section 050 of this chapter provided they are manually propelled, recognized by a national or international racing association and designed solely for competitive racing. ()

b. Float tubes are exempt from the requirements of Section 050 of this chapter while being operated

on lakes and reservoirs of this state of less than two hundred (200) surface acres in size at natural or ordinary high water. ()

051. -- 074. (RESERVED)

075. FIRE EXTINGUISHERS.

01. Fire Extinguishers Required. Except seaplanes and those motorboats less than twenty-six (26) feet in length, propelled by outboard motors, of open construction that will not permit the entrapment of explosive or flammable gases or vapors, and not carrying passengers for hire, no person may operate or permit to be operated any motorboat on the waters of this state unless it carries on board and have readily accessible at least the minimum number of serviceable U.S. Coast Guard approved fire extinguishers as set forth below. ()

02. Type and Size -- Table. Extinguishers approved for use on motorboats are hand portable of either B-I or B-II classification. "B" type is for gasoline, oil and grease fires. "I" and "II" denotes size as follows:

Classification	Foam Dioxide	Carbon Chemical	Dry Freon	Halon/
B-I	1.25 gals.	4 lbs.	2 lbs.	2.5 lbs.
B-II	2.50 gals.	15 lbs.	10 lbs.	

()

03. Inspections. Dry chemical fire extinguishers without gauges or indicating devices must be inspected every six (6) months. If the gross weight of a carbon dioxide (CO2) fire extinguisher is reduced by more than ten percent (10%) of the net weight, the extinguisher is not acceptable and must be recharged. ()

04. Specific Requirements. Except as provided in Subsection 075.01 of this chapter, the requirements for fire extinguishers by length of motorboat are as follows: ()

- a. Less than twenty-six (26) feet in length: At least one (1) B-I fire extinguisher is required. ()
- b. Twenty-six (26) feet to less than forty (40) feet in length: At least two (2) B-I fire extinguishers are required. ()
- c. Forty (40) feet to not more than sixty-five (65) feet in length: At least three (3) B-I fire extinguishers are required. ()
- d. Over sixty-five (65) feet in length: Federal requirements apply as stated in 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and 46 CFR Section 25.30-1 et seq. ()

05. Alternative Fire Extinguisher Requirement. One (1) B-II fire extinguisher may be substituted for two (2) B-I fire extinguishers. ()

06. Fixed Systems. When a fixed fire extinguishing system is installed in machinery space(s), one (1) less B-I fire extinguisher is required. ()

076. -- 099. (RESERVED)

100. LIGHTS AND SHAPES.

01. Lights Required. No person may operate or permit the operation of any vessel on the waters of this state between sunset and sunrise or in other times of restricted visibility unless the vessel is equipped with and displays the lights herein specified, and during such time no other lights which may be mistaken for those prescribed must be exhibited. ()

02. Motorized Vessels. A motorboat less than sixty-five and six-tenths (65.6) feet in length must exhibit navigation lights as follows: ()

a. A white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of two hundred twenty-five (225) degrees (twenty (20) points) and so fixed as to show the light from right ahead to twenty-two and five-tenths (22.5) degrees (two (2) points) abaft (toward the stern from) the beam on either side of the vessel. ()

b. A white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon one hundred thirty-five (135) degrees (twelve (12) points) and so fixed as to show the light sixty-seven and five-tenths (67.5) degrees (six (6) points) from right aft on each side of the vessel. ()

c. On the starboard side a green light and on the port side a red light each showing an unbroken light over an arc of the horizon of one hundred twelve and five-tenths (112.5) degrees (ten (10) points) and so fixed as to show the light from right ahead to twenty-two and five-tenths (22.5) degrees (two (2) points) abaft (toward the stern from) the beam on its respective side. These sidelights may be combined in one (1) lantern carried on the fore and aft centerline of the vessel. ()

d. A motorboat less than thirty-nine and four-tenths (39.4) feet in length may exhibit a white light aft visible all around the horizon in lieu of the white lights prescribed in Subsections 100.02.a. and 100.02.b. of this chapter. ()

03. Non-Motorized Vessels. A sailboat, under sail alone, and a vessel under oars or paddles, must exhibit navigation lights as follows: ()

a. On the starboard side a green light and on the port side a red light each showing an unbroken light over an arc of the horizon of one hundred twelve and five-tenths (112.5) degrees (ten (10) points) and so fixed as to show the light from right ahead to twenty-two and five-tenths (22.5) degrees (two (2) points) abaft (toward the stern from) the beam on its respective side. These sidelights may be combined in one (1) lantern carried on the fore and aft centerline of the vessel. ()

b. A white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon one hundred thirty-five (135) degrees (twelve (12) points) and so fixed as to show the light sixty-seven and five-tenths (67.5) degrees (six (6) points) from right aft on each side of the vessel. ()

c. A sailboat of less than twenty-three (23) feet in length or a vessel under oars or paddles must, if practicable, exhibit the lights prescribed in Subsections 100.03.a. and 100.03.b. of this chapter, but if it does not, it must have ready at hand an electric torch or lighted lantern showing a white light that must be exhibited in sufficient time to prevent collision. ()

04. Anchorage. All vessels must display a white light visible all around the horizon when anchored on the waters of this state, unless anchored in a designated mooring area. ()

05. Seaplanes. Where it is impracticable for a seaplane to exhibit lights of the characteristics or in the positions prescribed in Section 100 of this chapter, it must exhibit lights as similar in characteristics and position as is possible. ()

06. Sailboats. Between sunrise and sunset, a vessel proceeding under sail when also being propelled by machinery must exhibit forward where it can best be seen a conical shape, apex downward. A vessel of less than thirty-nine and four-tenths (39.4) feet in length is not required to exhibit this shape, but may do so. ()

07. Visibility. Every white light prescribed by Section 100 of this chapter must be of such character as to be visible at a distance of at least two (2) miles. Every other colored light must be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow and must be of such character as to be visible at a distance of at least one (1) mile. The word "visible" in Section 100 of this chapter means visible on a dark night with clear atmosphere. ()

08. Alternative Lights and Shapes. In lieu of the lights and shapes required in Section 100 of this chapter, a vessel may exhibit those lights and shapes provided for by 33 U.S.C. Section 1601 et seq., or 33 U.S.C. Section 2001 et seq. and applicable regulations, and as published by the U.S. Coast Guard in the Navigational Rules International - Inland. ()

101. -- 124. (RESERVED)

125. VENTILATION.

01. Ventilation Required. Except seaplanes, no person may operate or permit to be operated any vessel having aboard a gasoline engine used for any purpose, unless it is provided with proper ventilation. ()

02. Compartments With Gasoline Engines. Each compartment in a vessel that has a permanently installed gasoline engine with a cranking motor must be open to the atmosphere, or be ventilated by a natural ventilation system and a mechanical exhaust blower system as required by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and 33 CFR Section 183.601 et seq. ()

03. Collection of Vapors or Gases. Each compartment or tank in a vessel that may permit the entrapment of explosive or flammable gases or vapors must be ventilated by a natural ventilation system. ()

04. Natural Ventilation System. A natural ventilation system must be approved for use by the U.S. Coast Guard and include a supply opening or duct from the atmosphere or from a ventilated compartment or from a compartment that is open to the atmosphere, and an exhaust opening into another ventilated compartment or an exhaust duct to the atmosphere. Each exhaust opening or duct must originate in the lower third of the compartment; and each supply opening or duct and each exhaust opening or duct in a compartment must be above the normal accumulation of bilge water. Each supply opening must be forward facing and located on the exterior surface of a vessel, or be constructed so that air effectively flows into or out of the supply or exhaust openings. ()

05. Exhaust Blowers. Each vessel that is required to have an exhaust blower must have a label that is located as close as practicable to each ignition switch, is in plain view of the operator, and has at least the following information:

**“WARNING -- GASOLINE VAPORS CAN EXPLODE. BEFORE STARTING ENGINE
OPERATE BLOWER FOR FOUR (4) MINUTES AND CHECK ENGINE
COMPARTMENT BILGE FOR GASOLINE VAPORS.”**

()

06. Alternative Ventilation System. In lieu of the ventilation and warning label required in Section 125 of this chapter, a vessel may be provided with any type of ventilating system as required by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and applicable federal regulations. ()

126. -- 149. (RESERVED)

150. SOUND PRODUCING DEVICES.

No person may operate or permit to be operated any vessel on the waters of this state without carrying on board sound producing devices as follows: ()

01. Vessels Thirty-Nine and Four-Tenths Feet and Over. A vessel of thirty-nine and four-tenths (39.4) feet or more in length must be provided with a whistle or horn capable of making the prescribed signals provided for by 33 U.S.C. Section 2001 et seq., and a bell. The whistle or horn must be audible for at least one-half (1/2) nautical mile, and the bell, when struck, must produce a clear bell-like tone of full sound characteristic. ()

02. Vessels Under Thirty-Nine and Four-Tenths Feet. A vessel of less than thirty-nine and four-tenths (39.4) feet in length must be provided with a whistle or horn capable of making the prescribed signals provided for by 33 U.S.C. Section 2001 et seq. The whistle or horn must be audible for at least one-half (1/2) nautical mile.

()

151. -- 174. (RESERVED)

175. BACKFIRE FLAME CONTROL.

Except seaplanes, no person may operate or permit to be operated any motorboat on the waters of this state unless each carburetor on every inboard gasoline engine installed in a motorboat must be equipped with a U.S. Coast Guard approved backfire flame arrester or other means of backfire flame control approved for use by the U.S. Coast Guard, each of which is securely attached to the carburetor and in proper working order. ()

176. -- 199. (RESERVED)

200. WARNING FLAGS FOR DOWNED SKIERS.

No person may operate or permit to be operated any vessel used for towing waterskiers or similar devices in which persons or objects are being towed above, in, or on the waters of this state unless it has on board and displays a warning flag as specified in Section 200 of this chapter. ()

01. Size and Color. A warning flag must be international orange or red in color and must be at least one (1) foot square. ()

02. Use. When any person being towed by the vessel becomes disengaged from the towline and is down in the water, a person in the vessel must immediately hold the warning flag aloft, visible from all sides, as an indicator to other vessels in the area that a person is down in the water. As long as such downed person is in the water, the flag must remain displayed to prevent danger to that person and hazards to passing vessels. ()

03. Use Limited. Such warning flag must be displayed only under the conditions set forth in Section 200 of this chapter or when other eminent danger exists. ()

201. -- 224. (RESERVED)

225. VESSEL LIVERIES -- EQUIPMENT.

Neither the owner of a vessel livery nor his agent or employee may permit any vessel permitted by him to be operated as a vessel to depart from his premises unless it has been provided, either by owner or renter, with the equipment required pursuant to Title 67, Chapter 70, Idaho Code and this chapter. ()

226. PERSONAL WATERCRAFT LIVERIES.

01. Education Required. All liveries renting, leasing or hiring out any personal watercraft must provide education in the laws, rules and safe operation of the personal watercraft to each person that will operate the personal watercraft. No person may operate any personal watercraft that is rented, leased or hired without first completing instruction in the laws, rules and safe operation of the personal watercraft. This instruction must include: ()

a. The complete reading of "Personal Watercraft Laws and Safe Operation," IDPR form REV 50.13; and ()

b. The complete viewing of the video "Play It Safe" produced by the Personal Watercraft Industry Association. ()

02. Acknowledgment Required. All persons operating a rented, leased or hired personal watercraft must carry on board for inspection by any law enforcement officer a valid "Idaho PWC Renter's Acknowledgment of Education" form, IDPR form REV 50.14. ()

03. Provision of Forms, Videos, Publications. All forms, videos and other required educational materials will be provided to personal watercraft liveries by the Department at no charge to the livery. ()

227. -- 249. (RESERVED)

250. VESSEL NUMBERS -- DISPLAY, SIZE, COLOR.

- 01. Requirements.** Each vessel number required by Section 67-7008, Idaho Code, must: ()
- a.** Be in plain vertical block characters of not less than three (3) inches in height; ()
 - b.** Contrast with the color of the background; ()
 - c.** Have spaces or hyphens that are equal to the width of a letter other than "I" or a number other than "1" between the letter and number groupings (Example: ID 5678 A or ID-5678-A); ()
 - d.** Read from left to right; ()
 - e.** Be maintained in legible condition; ()
 - f.** Be as high above the waterline as practicable without decreasing the visibility of the number. ()
- 02. Manufacturers and Dealers.** When a vessel is used by a manufacturer or dealer for testing or demonstrating, the vessel number may be painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel. ()
- 03. Special Circumstances.** On vessels so configured that a vessel number on the hull or superstructure would not be easily visible, the vessel number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the vessel number is visible from each side of the vessel. ()

251. -- 274. (RESERVED)

275. VESSEL NUMBERS -- FORM.

- 01. Numbering.** Each vessel number issued according to Section 67-7008, Idaho Code, must consist of the prefix "ID," which denotes Idaho as the State of issuing authority, followed by: ()
- a.** Not more than four (4) numerals followed by not more than two (2) capital letters (Example: ID 1234 AB); or ()
 - b.** Not more than three (3) numerals followed by not more than three (3) capital letters (Example: ID 123 ABC). ()
- 02. Prohibited Letters.** A vessel number suffix may not include the letters "I," "O," or "Q," which may be mistaken for numerals. ()

276. -- 299. (RESERVED)

300. VALIDATION STICKERS.

- 01. Size and Location of Stickers.** Validation stickers issued according to Section 67-7008, Idaho Code, must: ()
- a.** Be displayed within six (6) inches of and directly in line with the vessel number displayed on the vessel; ()
 - b.** Be approximately three (3) inches square; and ()
 - c.** Indicate the year in which each validation sticker expires by the colors, green, red, blue, and international orange, in rotation beginning with green for stickers that expire in 1987. ()

02. Removal of Stickers. Validation stickers issued according to Sections 67-7008 or 67-7011, Idaho Code, that have become invalid must be removed from the vessel. ()

301. -- 324. (RESERVED)

325. APPLICATION AND CERTIFICATE OF NUMBER -- CONTENTS.

01. Requirements. Except as allowed in Subsections 325.03 and 325.04 of this chapter, each application for a certificate of number and each certificate of number, referred to in Section 67-7008, Idaho Code, must contain the following information: ()

- a.** Number issued to the vessel; ()
- b.** Expiration date of the certificate; ()
- c.** State of principal use; ()
- d.** Name of the owner; ()
- e.** Address of owner, including ZIP code; ()
- f.** Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing or other use; ()
- g.** Manufacturer's hull identification number (if any); ()
- h.** Make of vessel; ()
- i.** Year vessel was manufactured; ()
- j.** Overall length of vessel; ()
- k.** Whether the vessel is an open boat, cabin cruiser, houseboat, or other type; ()
- l.** Hull material; ()
- m.** Whether the propulsion is inboard, outboard, inboard-outdrive, or sail; ()
- n.** Whether the fuel is gasoline, diesel, or other; ()
- o.** The number previously issued by an issuing authority for the vessel, if any; ()
- p.** Whether the application is for a new certificate of number, renewal of a certificate of number, or transfer of ownership; ()
- q.** The signature of the owner. ()

02. Manufacturer or Dealer. A certificate of number issued to a manufacturer or dealer to be used on a vessel for test or demonstration purposes may omit the requirements of Subsections 325.01.g. through 325.01.n. of this chapter if the word "manufacturer" or "dealer" is plainly marked on the certificate. ()

03. Livery Vessels. A certificate of number issued to a vessel that is to be rented or leased without propulsion machinery may omit the requirements of Subsections 325.01.m. and 325.01.n. of this chapter if the words "livery vessel" are plainly marked on the certificate. ()

04. Proof of Ownership. Each applicant for a certificate of number as prescribed in Section 67-7008,

Idaho Code, must submit one (1) of the following documents to the Department or authorized vendor: ()

a. The bill of sale from the dealer or a bill of sale from the previous owner of the vessel; ()

b. If the vessel is home built, a sworn statement attesting to the identity of the builder, the location or place of construction, the source of the material used for construction and a description of the vessel. The statement must also be accompanied by any receipts received from the purchase or acquisition of the materials used in the construction of the vessel and a copy of the construction plans, if any; ()

c. If the vessel has been rebuilt, a sworn statement attesting to the identity of the builder, the location or place of rebuilding, the source of the material used for rebuilding and a description of the vessel. The statement must also be accompanied by any receipts received for the purchase or acquisition of the materials used in the rebuilding of the vessel and documentation indicating the source of the original hull and proof of ownership from the previous owner; ()

d. If none of the documents listed in Subsections 325.04.a. or 325.04.b. of this Section are available, the applicant must submit an affidavit of ownership to the Department. ()

326. -- 349. (RESERVED)

350. NUMBERING - EXEMPTIONS.

The following vessels are exempt from the numbering provisions of Title 67, Chapter 70, Idaho Code, pursuant to Section 67-7009(5), Idaho Code: ()

01. Rowboats. Rowboats without motors; ()

02. Canoes. Canoes without motors; ()

03. Kayaks. Kayaks without motors; ()

04. Inflatables. Inflatable vessels without motors; ()

05. Paddle Vessels. Paddle vessels without motors; ()

06. Sailboards. Sailboards without motors; ()

07. Tenders. Tenders; ()

08. Documented Vessels. Vessels properly documented with the U.S. Coast Guard, according to 46 U.S.C. 12101 et seq.; and ()

09. Government Vessels. Vessels exempted in Section 67-7009(3), Idaho Code, include those vessels owned by the United States, another state or a political subdivision thereof, which are used principally for governmental purposes other than recreation, and which are clearly identifiable as a government-owned vessel. ()

351. -- 399. (RESERVED)

400. COUNTY ELIGIBILITY TO RECEIVE MONEYS FROM THE STATE VESSEL ACCOUNT.

01. Boating Improvement Program. Only those counties in the state with a boating improvement program, as recognized by the Department, are eligible to receive moneys from the state vessel account. A “boating improvement program” means that one (1) or more recognized boating facilities are being developed and/or maintained within the county’s jurisdiction and/or that the county has or is actively developing a recognized boating law enforcement program” (Section 67-7013(6), Idaho Code). ()

02. Requirements for Boating Improvement Program. A boating improvement program is

recognized if it contains one (1) or more of the following: ()

a. Boating facilities that are being maintained within the county's jurisdiction. A boating facility is an improved public boating access site, which includes at least an improved (concrete or asphalt) boat ramp and any type parking area for vehicles and their attached boat trailers. ()

b. Boating facilities that are being developed within the county's jurisdiction. "Being developed" means that substantiating evidence can and must be presented in proof of the development. ()

c. The county has a boating law enforcement program. A boating law enforcement program is a program whereby an agent of the county sheriff's Department is currently, or has in the recent past, patrolled the county's waterways and enforced Title 67, Chapter 70, Idaho Code. ()

d. The county is actively developing a boating law enforcement program. "Actively developing" means that substantiating evidence can and must be presented in proof if the development. ()

401. -- 424. (RESERVED)

425. HULL IDENTIFICATION NUMBERS - REQUIRED.

01. Obtaining a Hull Identification Number. A person who builds or imports a vessel for his own use and not for the purposes of sale must request a hull identification number from the director and affix the number as instructed (Section 67-7004(2), Idaho Code). ()

02. Displaying the Hull Identification Number. A person must identify a vessel with the display of two (2) identical hull identification numbers, or as otherwise provided by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and 33 CFR Section 181.21 et seq. ()

03. Duplicate Numbers Prohibited. The same hull identification number may not be assigned to more than one (1) vessel. ()

04. Proof of Ownership. Each applicant for a hull identification number as prescribed in Sections 67-7004(2) and 67-7004(4), Idaho Code, must submit one (1) of the following documents to the Department: ()

a. The bill of sale from the dealer or a bill of sale from the previous owner of the vessel; ()

b. If the vessel is home built, a sworn statement attesting to the identity of the builder, the location or place of construction, the source of the material used for construction and a description of the vessel. The statement must also be accompanied by any receipts received from the purchase or acquisition of the materials used in the construction of the vessel and a copy of the construction plans, if any; ()

c. If the vessel has been rebuilt, a sworn statement attesting to the identity of the builder, the location or place of rebuilding, the source of the material used for rebuilding and a description of the vessel. The statement must also be accompanied by any receipts received for the purchase or acquisition of the materials used in the rebuilding of the vessel and documentation indicating the source of the original hull and proof of ownership from the previous owner; ()

d. If none of the documents listed in Subsections 425.04.a. or 425.04.b. of this Section are available, the applicant must submit an affidavit of ownership to the Department. ()

426. -- 449. (RESERVED)

450. HULL IDENTIFICATION NUMBERS -- FORM.

Each hull identification number issued according to Section 67-7004(2), Idaho Code, consists of twelve (12) characters, uninterrupted by slashes, hyphens, or spaces, as follows: ()

01. Prefix. The first three (3) characters (prefix) are "IDZ," which denotes Idaho as the issuing

authority. ()

02. Hull Serial Number. Characters four (4) through eight (8) are the hull serial number assigned by the director in letters of the English alphabet, or Arabic numerals, or both, except the letters “I,” “O,” and “Q.” ()

03. Date of Manufacture. Characters nine (9) and ten (10) indicate the month and year of manufacture. The date indicated can be no earlier than the date construction or assembly began and no later than the date construction or assembly is completed or the vessel is imported into the United States. Character nine (9) are indicated using letters of the English alphabet. The first month of the year, January, is designated by the letter “A,” the second month, February, by the letter “B,” and so on until the last month of the year, December. Character ten (10) is the last digit of the year of manufacture or import and must be an Arabic numeral. ()

04. Model Year. Characters eleven (11) and twelve (12) indicate the model year using Arabic numerals for the last two (2) numbers of the model year such as “87” for 1987 and “88” for 1988. ()

451. -- 474. (RESERVED)

475. HULL IDENTIFICATION NUMBERS -- DISPLAY.

Each hull identification number issued according to Section 67-7004(2), Idaho Code must be displayed as follows: ()

01. Primary Number. The primary hull identification number must be affixed: ()

a. On vessels with transoms, to the starboard outboard side of the transom within two (2) inches of the top of the transom, gunwale, or hull/deck joint, whichever is lowest. ()

b. On vessels without transoms or on vessels on which it would be impractical to use the transom, to the starboard outboard side of the hull, aft, within one (1) foot of the stern and within two (2) inches of the top of the hull side, gunwale or hull/deck joint, whichever is lowest. ()

c. On catamarans and pontoon vessels which have readily replaceable hulls, to the aft crossbeam within one (1) foot of the starboard hull attachment. ()

d. If the hull identification number would not be visible, because of rails, fittings, or other accessories, the number must be affixed as near as possible to the location specified in Subsection 475.01 of this chapter. ()

02. Duplicate Number. The duplicate hull identification number must be affixed in an unexposed location on the interior of the vessel or beneath a fitting or item of hardware. ()

03. Hull Identification Number to Be Permanently Affixed. Each hull identification number must be carved, burned, stamped, embossed, molded, bonded, or otherwise permanently affixed to the vessel so that alteration, removal, or replacement would be obvious. If the number is on a separate plate, the plate must be fastened in such a manner that its removal would normally cause some scarring of or damage to the surrounding hull area. A hull identification number may not be attached to parts of the vessel that are removable. ()

04. Size of Characters. The characters of each hull identification number may be no less than one-fourth (1/4) of an inch high. ()

476. -- 499. (RESERVED)

500. IDAHO WATERWAY MARKING SYSTEM.

01. Uniform System. In the marking of water areas, as described in Section 67-7031, Idaho Code, the Uniform State Waterway Marking System is used for the placement of aids to navigation and regulatory markers in the waters of the state. ()

02. Regulatory Markers. Regulatory markers are used to indicate to a vessel operator the existence of dangerous areas as well as those which are restricted or controlled, such as speed zones and areas dedicated to a particular use, or to provide general information and directions. ()

03. Colors. Each regulatory marker must be colored white with international orange geometric shapes. ()

04. Buoys. When a buoy is used as a regulatory marker it must be white with horizontal bands of international orange placed completely around the buoy circumference. One (1) band must be at the top of the buoy body, with a second band placed just above the waterline of the buoy so that both international orange bands are clearly visible to approaching vessels. The area of buoy body visible between the two (2) bands must be white. ()

05. Geometric Shapes. Geometric shapes must be placed on the white portion of the buoy body and must be colored international orange. The authorized geometric shapes and meanings associated with them are as follows: ()

a. A vertical open faced diamond shape to mean danger. ()

b. A vertical open faced diamond shape having a cross centered in the diamond to mean that a vessel is excluded from the marked area. ()

c. A circular shape to mean that vessel operated in the marked area is subject to certain operating restrictions. ()

d. A square or rectangular shape with directions or information lettered on the inside. ()

06. Signs. Where a regulatory marker consists of a square or rectangular shaped sign displayed from a structure, the sign must be white, with an international orange border. When a diamond or circular geometric shape associated with meaning of the marker is included it must be centered on the signboard. ()

07. Navigation Aids. Aids to navigation are used to supplement the federal lateral system of buoyage and have either a lateral or cardinal meaning. ()

08. Defined Channel. On a well defined channel including a river or other relatively narrow natural or improved waterway, an aid to navigation is normally a solid colored buoy. A buoy that marks the left side of the channel viewed looking upstream or toward the head of navigation must be colored all black. A buoy that marks the right side of the channel viewed looking upstream or toward the head of a navigation must be colored all red. On a well defined channel, solid colored buoys are established in pairs, one (1) on each side of the navigable channel that they mark, and opposite each other to inform the user that the channel lies between the buoys and that he should pass between the buoys. ()

09. Irregularly Defined Channel. On an irregularly defined channel, solid colored buoys may be used singly in staggered fashion on alternate sides of the channel provided they are spaced at sufficiently close intervals to inform the user that the channel lies between the buoys and that he should pass between the buoys. ()

10. Undefined Channel. Where there is no well defined channel or when a body of water is obstructed by objects whose nature or location is such that the obstruction can be approached by a vessel from more than one (1) direction, supplemental aids to navigation having cardinal meaning (i.e., pertaining to the cardinal points of the compass, north, east, south, and west) may be used. The use of an aid to navigation having cardinal meaning is discretionary provided that the use of such a marker is limited to wholly state owned waters and the state waters for private aids to navigation as defined and described in Section 500 of this chapter. ()

11. Cardinal System. Aids to navigation conforming to the cardinal system consist of three (3) distinctly colored buoys. ()

a. A white buoy with a red top may be used to indicate to a vessel operator that he will pass to the south or west of the buoy. ()

b. A white buoy with a black top may be used to indicate to a vessel operator that he will pass to the north or east of the buoy. ()

c. In addition, a buoy showing alternate vertical red and white stripes may be used to indicate to a vessel operator that an obstruction to navigation extends from the nearest shore to the buoy and that he may not pass between the buoy and shore. The number of white and red stripes is discretionary, provided that the white stripes are twice the width of the red stripes. ()

12. Markers to Be Visible. The size, shape, material, and construction of all markers, both fixed and floating, must be such as to be observable under normal conditions of visibility at a distance such that the significance of the marker or aid must be recognizable before the observer stands into danger. ()

13. Lettering to Be Visible. Numbers, letters or words on an aid to navigation or regulatory marker must be placed in a manner to enable them to be clearly visible to an approaching and passing vessel. They must be block style, well proportioned, and as large as the available space permits. Numbers and letters on red or black backgrounds must be white; numbers and letters on white backgrounds must be black. ()

14. Numbering Buoys. Odd numbers must be used to identify solid colored black buoys or black topped buoys; even numbers must be used to identify solid colored red buoys or red topped buoys. All numbers must increase in an upstream direction or toward the head of navigation. The use of numbers to identify buoys is discretionary. ()

15. Lettering Markers. Letters only may be used to identify regulatory and the white and red vertically striped obstruction markers. When used the letters must follow alphabetical sequence in an upstream direction or toward the head of navigation. The letters "I" and "O" are omitted to preclude confusion with numbers. The use of letters to identify regulatory markers and obstruction markers is discretionary. ()

16. Reflective Material. The use of reflectors or retroreflective materials is discretionary. ()

17. Color of Reflective Material. When used on buoys having lateral significance, red reflectors or retroreflective materials must be used on solid colored red buoys; green reflectors or retroreflective materials must be used on solid colored black buoys; white reflectors or retroreflective materials only may be used for all other buoys including regulatory markers, except that orange reflectors or retroreflective materials may be used on the orange portions of regulatory markers. ()

18. Lights. The use of navigational lights on state aids to navigation, including regulatory markers, is discretionary. When used, lights on solid colored buoys must be regularly flashing, regularly occulting, or equal interval lights. For ordinary purposes the frequency of flashes may not be more than thirty (30) flashes per minute (slow flashing). When it is desired that lights have a distinct cautionary significance, as at sharp turns or sudden constrictions in the channel or to mark wrecks or other artificial or natural obstructions, the frequency of flashes may not be less than sixty (60) flashes per minute (quick flashing). When a light is used on a cardinal system buoy or a vertically striped white and red buoy it must always be quick flashing. The colors of the lights must be the same as for reflectors; a red light only on a solid colored red buoy; a green light on solid colored black buoy; white light only for all other buoys including regulatory markers. ()

19. Ownership Identification. The use and placement of ownership identification is discretionary, provided that ownership identification is worded and placed in a manner that avoids detracting from the meaning intended to be conveyed by a navigational aid or regulatory marker. ()

20. Mooring Buoys. Mooring buoys in state waters for private aids to navigation must be colored white and must have a horizontal blue band around the circumference of the buoy centered midway between the top of the buoy and the waterline. ()

21. Lighted Mooring Buoys. A lighted mooring buoy must normally display a slow flashing white

light. When its location in a waterway is such that it constitutes an obstruction to a vessel operated during hours of darkness, it must display a quick flashing white light. ()

22. Identifying Mooring Buoys. A mooring buoy may bear ownership identification provided that the manner and placement of the identification does not detract from the meaning intended to be conveyed by the color scheme or identification letter when assigned. ()

501. -- 524. (RESERVED)

525. NEGLIGENCE OPERATION.

Negligent operation, as used in Section 67-7017, Idaho Code, includes, but not be limited to, the following: ()

01. Airborne. Becoming airborne or completely leaving the water while crossing the wake of another vessel at an unsafe distance from the vessel creating the wake; or ()

02. Weaving. Weaving through congested traffic; or ()

03. Speed or Proximity. Operating at such a speed and proximity to another vessel, a person, or property of other persons so as to require the operator to swerve at the last moment to avoid collision. ()

526. -- 999. (RESERVED)

**26.01.31 – RULES GOVERNING THE ADMINISTRATION OF THE IDAHO DEPARTMENT
OF PARKS AND RECREATION STATE AND FEDERAL GRANT FUNDS**

000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-4223(a), Idaho Code, to adopt, amend, or rescind rules as may be necessary for proper administration of the Department and its programs. ()

001. SCOPE.

The purpose of this chapter is to ensure consistent administration of state and federal grant programs. It is the intent of the department, through the state and federal grant programs, to provide funds and planning assistance to entities consistent with the purpose statement outlined in Idaho Code for each program and the provisions detailed in this chapter and the recreation grant program guidance. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

As used in this chapter: ()

01. 2CFR 200. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as set forth in 2 CRF 200 (Code of Federal Regulations). ()

02. Applicant. An IDPR approved entity, that identifies a need for a project, supplies initial support data, and applies for program grant through the Department. ()

03. ATV. All-terrain vehicle. ()

04. Board. The Idaho Park and Recreation Board. ()

05. Department. The Idaho Department of Parks and Recreation. ()

06. Director. The Idaho Department of Parks and Recreation, or the designee. ()

07. Grant. A grant from programs or funds as described in Section 001.02 of this chapter. ()

08. Grantee. An applicant who receives a grant from the Department for the programs or funds as described in Section 001.02. ()

09. Match. The grantee's contribution of cash, material, labor, and third-party in-kind services needed to complete the project as defined in the grant agreement. ()

10. Non-Profit. An organization that qualifies for tax-exempt status by the IRS because its mission and purpose are to further a social cause and provide a public benefit. As used in this chapter, the term includes qualified non-for-profit organizations that benefit outdoor recreation. ()

11. Project. The purchases, construction, or other activities proposed by the applicant and documented in the grant agreement. ()

12. Public Entity. The state, federal or local government or a subdivision thereof (including recreation districts), or a Native American Tribe. ()

13. Recreational Grant Program Guidance. A compilation of state procedures, rules, policies, and instructions assembled for dissemination to the potential entities that may wish to apply for grants. ()

14. State and Federal Grant Manager. The Department employee in charge of state and federal grant programs. ()

011. -- 049. (RESERVED)

050. GRANT CYCLES.

Applications for Off-Road Motor Vehicle (ORMV) Fund, Recreational Vehicle Fund (RV), Waterways Improvement Fund (WIF), Motorbike Recreation Account (MB), Mountain Bike License Plate (BK), Cutthroat License Plate (CP), and Recreational Road and Bridge (RB) grants will be considered at least once each state fiscal year (July 1 through June 30) dependent upon adequate funding availability. Applications for Recreational Trails Program (RTP) projects

will be considered at least once each federal fiscal year (October 1 through September 30) dependent upon adequate funding availability. ()

051. -- 074. (RESERVED)

075. ELIGIBLE APPLICANTS.

Public entities are eligible to apply for all grant programs. Non-profit organizations are eligible to apply for the Recreational Trails Program and Mountain Bike Plate program. The state and federal grant manager determines if applicants are eligible based on federal code, state statutes and past performance of the applicant. Based on an applicant's past performance in managing a grant with the department the state and federal grant manager may recommend to the board that the applicant be considered ineligible for the current funding cycle. ()

076. -- 099. (RESERVED)

100. APPLICATION PROCEDURE.

01. Submittal. Eligible applicant submits application prior to the stated deadline in the Recreational Grant Program Guidance. To be considered for a grant, an applicant must propose an eligible project and submit all documentation required by this chapter. ()

02. Public Comment. As part of the application, the applicant must provide an opportunity for public comment. The applicant must include proof of public comment regarding the project in the application. The opportunity for public comment should begin within one (1) year of submitting the application. Any projects with public comment conducted over one (1) year prior to application may be rejected by the state and federal grant manager and the project will be deemed ineligible. ()

03. Complete Application. Materials submitted by the sponsor are reviewed by the department for completeness and eligibility. ()

04. Ranking. The appropriate advisory committee establishes project rankings by rating each eligible project using criteria established by the board. To objectively rate competing eligible projects, the committee considers the application and how the project meets the criteria and established priorities for the program. ()

05. Board Review. The board reviews the priority list for awards and sets funding line based on recommendation of the advisory committees and the state and federal grant manager. ()

06. Grant Award. Upon grant approval by the board, the department will present the sponsor with a grant agreement that identifies eligible costs and obligates the applicant to a specified project scope and performance period. ()

07. Grant Agreement. The applicant must sign the agreement prior to initiating work on the project. The signed agreement obligates the applicant to complete all elements of the project as described in the agreement and any applicable approved amendment. ()

101. -- 149. (RESERVED)

150. PROJECT REQUIREMENTS.

01. Real Property. The grantee must include any proposals to purchase real property with grant moneys in the grant application and must provide an appraisal consistent with Section 175 of this chapter. ()

02. Fees. The applicant is required to identify any existing or proposed fees associated with the grant request, including existing or proposed facilities. The applicant may propose fees for the use of or access to facilities or real property developed or purchased with grant funds at a level commensurate with the costs of maintenance and upkeep of the facility or real property. Requests for donations and fees for special events of limited duration at the facility are exempt when such are intended to cover extraordinary expenses. ()

03. Grant Modification. Only for good cause, and upon the submission of detailed justification in writing and approval by the state and federal grant manager, may the terms and obligations of the grant application or grant agreement be modified. Examples of “good cause” include extraordinary physical barriers, project re-routing necessary to avoid critical habitat, and other constraints beyond the control of the grantee. ()

151. -- 174. (RESERVED)

175. REAL PROPERTY APPRAISALS.

01. Appraisal Required. A real estate appraisal is required for all real property to be acquired with grant funds. The appraisal must be paid for by the grantee but may be included as part of eligible project costs in the application. ()

02. Appraisal Review. The state and federal grant manager reviews appraisals for reasonableness at the time of application. The state and federal grant manager may reject a grant application that includes an unreasonable appraisal. ()

03. Negotiated Price. An approved appraisal is an acceptable estimate of property value. The negotiation between a willing seller and a willing buyer may set a price that is higher than the appraisal, and this value can be considered along with the appraised value in establishing the reasonable limits of grant assistance. If the grantee believes the negotiated price is a better indication of market value, yet is higher than the appraised value, a detailed statement of this difference must be submitted to the state and federal grant manager. ()

04. Adequate Title and Public Access. The grantee must have clear title to, or adequate control and tenure of, the real property (land, land improvement, structures, and appurtenances) to be developed. The term “adequate control and tenure” of real property means a lease or an easement that provides the grantee sufficient control over the real property to permit the proposed development and use for a period of at least twenty-five (25) years from the date of application, unless specifically approved in writing by the department for a shorter term. The grantee must list all outstanding rights or interests held by others in the real property to be developed. If access to the real property to be developed is over private property, then the grantee must describe the provisions made to ensure adequate public access. In the event the real property becomes unusable for its intended purposes or if such use ceases, the grantee is responsible for conversion of the project. ()

05. Limitations on Use. Property rights obtained with grant funds must be free of all reservations or encumbrances that would limit the use of the site disproportionate to the public benefit. ()

176. -- 199. (RESERVED)

200. GRANT STANDARDS.

01. Minimum Project Match. Applicants must provide a minimum match of five percent (5%) of the total project cost, except recreational trails program which has a federal minimum match. ()

02. Minimum Motorized Equipment Match. Grants for motorized equipment are allowed in the waterways improvement fund, recreational vehicle, off-road motor vehicle, recreational trails program, motorbike recreation, and mountain bike plate grant programs. Applicants must provide a minimum match of twenty percent (20%) of the total equipment purchase. An applicant may claim up to fifteen percent (15%) match from the trade-in value of other equipment. A minimum of five percent (5%) must be a cash match. ()

03. Waterways Improvement Fund Grant Limit. The total sum of WIF grant funds approved to be used in any one (1) county may not exceed fifty percent (50%) of the total WIF grant funds approved to be used statewide in any state fiscal year. ()

201. MATCHING FUNDS.

The following types of match may be used: ()

01. Force Account Labor and Equipment. Documentation of force account must include: the name

of each employee, dates worked, hourly rate of pay, number of hours worked, and the total cost by each employee. Documentation of equipment costs includes the type of equipment used, dates used, hourly rate value, number of hours used, how the hourly rate was determined, and total cost. ()

02. Donated Materials. The value of donated material that is used as match cannot exceed the costs of the materials as documented in an invoice or receipt, or the market price at the time the grantee requests reimbursement for the material, whichever is less. The grantee must provide a detailed invoice marked “donation” or a letter from the donor (including the value) as documentation of donated material. ()

03. Donated Contract Labor. When an employer, other than the grantee, donates the services of an employee, these services are valued at the employee’s regular rate of pay (not including fringe benefits and overhead costs). These services must be for the same skill for which the employee is normally paid. The grantee must provide documentation that includes the employee’s name, dates worked, hourly rate, number of hours worked, and total cost. ()

04. Rates for Volunteers. Skilled and unskilled volunteer labor rates must be consistent with the rate the grantee would pay for similar work in the grantee’s labor market. If the volunteer is professionally skilled and employed in the work being performed on the project, the grantee may use the volunteer’s normal wage rate. If the volunteer is not professionally employed in the work being performed on the project, the grantee must value the donated labor at the federal minimum wage rate. The grantee must provide documentation that includes the volunteer’s name, date worked, hourly rate, number of hours worked, and total cost. ()

202. -- 299. (RESERVED)

300. EXPENDITURE OF GRANT FUNDS.

Grant funds not expended within the designated fiscal year or years as established by the project period in the project agreement, may be revoked unless the applicant requests and receives an extension of time from the state and federal grant manager. ()

301. PROJECT EXTENSION.

A written request for an extension of the project period must be received and reviewed by the state and federal grant manager prior to the end of the project period. No project extension will be granted for more than one (1) year; however, an applicant may request project extensions in consecutive years. ()

302. COST INCREASES.

01. Cost Overruns. Twenty percent (20%) of any program allocation may be held out by the department for necessary cost overruns related to previously awarded grants. Any unused funds will be redistributed in the next funding cycle. ()

02. Minor Cost Increases. Cost increases of fifteen percent (15%) or less of the original grant amount that are less than or equal to twenty thousand dollars (\$20,000), may be approved by the director. Cost increases of fifteen percent (15%) or less of the original grant amount that exceed twenty thousand dollars (\$20,000) may be approved by the board. ()

03. Major Cost Increases. Cost increases of more than fifteen percent (15%) of the original grant amount are not allowed. The applicant must either resubmit the project or submit a new grant request to increase the current project. ()

303. -- 349. (RESERVED)

350. PROJECT MANAGEMENT AND DISBURSEMENT OF FUNDS.

01. Grant Agreement. A grantee must complete the grant agreement form, with original or authenticated digital signatures, within sixty (60) calendar days of written notification of grant award. The agreement obligates the applicant to complete all elements of the project as specified in the signed grant agreement. ()

02. Purchase and Bidding Requirements. The grantee must follow all local, state and federal laws pertaining to the expenditure of public funds. ()

03. Permits. The grantee must legally acquire all required local, state and federal permits for the construction or development of the project before grant funds are expended. Construction must comply with the then current codes and standards. ()

04. Reimbursement of Project Costs. The grantee must initially pay all project costs and then seek reimbursement through the department. The grantee must complete the appropriate form provided by the department certifying that the data is correct and submit the form to the department with an original or authenticated signature. ()

05. Allowable Costs. The State and Federal Grant Manager determines what expenses are eligible for reimbursement based on federal code, state statutes and rules. Grantees must follow 2 CFR 200, in determining the reasonableness and allowability of costs. ()

a. Projects, or any part thereof, either paid for by the grantee or completed prior to the grant application deadline, are ineligible for grant funding or to be considered as match. However, costs for design and engineering incurred within one (1) year prior to the application deadline date may be considered as match, provided they are listed as a scope element on the application. ()

b. For Recreational Trail Program projects, any project activity conducted prior to the execution of the project agreement is ineligible for reimbursement or to be considered as match. ()

06. Matching Funds. All matching funds must meet the allowable costs criteria outlined in Section 201 of this chapter. ()

07. Documentation and System of Internal Controls. Grantees must follow 2 CFR 200 in maintaining a system of internal controls that provides reasonable assurance the grantee is managing the award in compliance with this chapter. Accounting records must be supported by source documentation such as vouchers, canceled checks, invoices, payroll, time and attendance records, contract and sub-grant award documents, and other required billing forms. ()

08. Reimbursement Requests and Reporting. Grantees must remit a performance report to the department with each reimbursement request. Failure of the grantee to report or poor performance indicated by the inspection report may disqualify grantee from any future grant applications with the department. ()

09. Grant Closeouts. Within forty-five (45) days after the completion of the project, the grantee must submit an appropriate closeout form as provided by the department. ()

10. Record Retention. The records relative to any grant project are public records. The grantee must retain all financial information referenced in this chapter regarding a project for a time period of three (3) years from the date of the final grant payment, unless any litigation or audit concerning the project has been started or announced. ()

11. Audit Authority. The department has the right of access to any books, documents, papers, or other records of grantees that are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts. An audit of the grant may result in the disallowance of costs incurred by the recipient and the establishment of a debt (account receivable) due the department. The department may perform an audit randomly and without prior notice. ()

12. Failure to Comply. If a grantee fails to comply with the obligations as set forth in the signed grant agreement, the applicant must repay all or a portion of the expended grant funds as determined by the state and federal grant manager. ()

351. -- 399. (RESERVED)

400. ONGOING GRANTEE OBLIGATIONS.

01. Maintenance. The grantee must maintain any facilities, real property, and equipment funded by a grant in the condition equivalent to that existing when such facility was completed or property or equipment purchased, normal wear and tear excepted. ()

02. Public Use. The grantee must ensure that facilities and real property are available to the general public. ()

03. Nondiscrimination. The grantee must ensure that facilities and real property purchased in whole or in part with grant moneys are available for public use regardless of race, color, religion, national origin, gender, age, or disability. The grantee must ensure that facilities constructed with grant moneys meet the requirements as set by the Americans with Disabilities Act. ()

04. Acknowledgment of Funding Assistance. Grantee must post and maintain appropriate permanent signs or decals upon project sites or equipment acknowledging funding assistance from the appropriate grant fund and the department upon start of the project or purchase of equipment. ()

05. Project Liability. Grantees, through a signed agreement, assume all project liability and hold the department harmless. ()

06. Responsibility for Equipment. Motorized equipment purchased with grant funds becomes the property of the grantee and must be maintained for use on public projects. ()

07. Failure to Comply. Failure by the grantee to comply with the ongoing obligations may require repayment all or a portion of the grant funding. ()

401. -- 449. (RESERVED)

450. PROJECT CONVERSIONS.

No grant funded project may, without the prior written approval of the Board, be converted to uses other than for the authorized purposes specified in the original grant application or grant agreement. ()

451. -- 999. (RESERVED)

26.01.34 – IDAHO PROTECTION AGAINST INVASIVE SPECIES STICKER RULES

000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-7002, Idaho Code to promulgate rules to aid in the administration of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code; and is authorized under Section 67-7008A, Idaho Code, to promulgate rules prescribing the display of protection against invasive species stickers.

()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.34, "Idaho Protection Against Invasive Species Sticker Rules."

()

02. Scope. This chapter establishes rules to aid in the administration and enforcement of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code.

()

002. -- 009. (RESERVED)

010. DEFINITIONS.

As used in this chapter:

()

01. Commercial Outfitters. As defined in Section 36-2102(b), Idaho Code.

()

02. Department. The Idaho Department of Parks and Recreation.

()

03. Fund. Invasive Species Fund as defined in Section 22-1911, Idaho Code.

()

04. Idaho Invasive Species Act. The Idaho Invasive Species Act of 2008 as established in Title 22, Chapter 19, Idaho Code.

()

05. Motorized Vessel. Any watercraft requiring certificate of number under Section 67-7008, Idaho Code, or any comparable U.S. vessel certificate of number program.

()

06. Non-Motorized Vessel. Any watercraft used or capable of being used as a means of transportation on water that is propelled by human effort. For the purpose of this chapter this term does not include small inflatable rafts or other inflatable vessels less than ten (10) feet in length.

()

07. Protection Against Invasive Species Sticker. Any sticker issued by the Department in accordance with the provisions of Section 67-7008(A), Idaho Code.

()

08. Validation Sticker. Any sticker issued by the Department in accordance with the provisions of Section 67-7008, Idaho Code.

()

011. -- 049. (RESERVED)

050. COLLECTION OF FEES AND DISTRIBUTION OF REVENUES INTO FUND.

In addition to any other moneys or fees collected pursuant to Section 67-7008 or any other provision of Title 67, Chapter 70, Idaho Code, all vessels are required to pay an additional fee as established in Section 67-7008A, Idaho Code.

()

01. Operator Responsibilities. The operator of any watercraft required to display a Protection Against Invasive Species Sticker pursuant to this chapter will ensure that fees are paid and that a Protection Against Invasive Species Sticker is displayed on the vessel, except as provided in Subsection 075.01 of this chapter, prior to launch into the public waters of Idaho.

()

02. Prorated Group Rates for Commercial Outfitters.

()

a. Group rates for commercial outfitters with nonmotorized fleets exceeding five (5) vessels will be determined using the number of vessels within the fleet at the time of purchase of the stickers, as provided in Section 67-7008A(1)(c). Previous or future sticker purchases will be prorated separately.

()

b. Protection Against Invasive Species Stickers purchased by outfitters or guides who are duly licensed in accordance with Title 36, Chapter 21, Idaho Code, must be accompanied by an affidavit that must be

signed by the outfitter or guide. The signed affidavit verifies the number of vessels within the covered fleet and that the appropriate number of Protection Against Invasive Species Stickers has been purchased. The Protection Against Invasive Species Stickers and affidavit must be kept on file at the outfitter or guide's physical address and must be made available for inspection upon request of the Department or upon request by law enforcement. Non-motorized commercial outfitters and guides are not required to place a Protection Against Invasive Species Sticker on their vessels. Identification of commercial outfitted and guided boats must be in compliance with IDAPA 25.01.01, "Rules of the Outfitters and Guides Licensing Board," Subsection 054.03.a. ()

03. Transfer of Funds. Fees collected will be transferred and deposited into the Fund no less than quarterly during any fiscal year. ()

051. -- 074. (RESERVED)

075. PROTECTION AGAINST INVASIVE SPECIES STICKER.

01. Motorized Vessels. Beginning with the 2010 boating season, upon payment of the fees required by Section 050 of these rules, the validation sticker as identified in IDAPA 26.01.30, "Idaho Safe Boating Rules," will also serve as the Protection Against Invasive Species Sticker for those vessels numbered pursuant to Section 67-7008, Idaho Code. ()

02. All Other Watercraft. A separate Protection Against Invasive Species Sticker will be issued for all other watercraft upon payment of the fees required under Section 050 of these rules. ()

076. PLACEMENT OF PROTECTION AGAINST INVASIVE SPECIES STICKER.

01. Location. ()

a. Motorized vessel. Except as provided in Subsection 075.01 of this chapter, the Protection Against Invasive Species Sticker should be affixed next to the current year validation sticker on the port (left) side of the vessel. ()

b. Non-motorized. Except as provided in Subsection 050.02.a. of this chapter, the Protection Against Invasive Species Sticker should be affixed in the following manner. ()

i. For canoes, kayaks, and other small rigid vessels, the Protection Against Invasive Species Sticker should be affixed near the bow above the waterline on the port (left) side, or on top of the vessel if there is little or no waterline distinction. ()

ii. For inflatable (non-rigid) vessels, the Protection Against Invasive Species Sticker can be modified to allow attachment of a zip tie, plastic attachment, or other similar mechanism, or be laminated into a hang tag. ()

02. Removal. Protection Against Invasive Species Stickers issued in accordance with Section 67-7008A, Idaho Code, that have become invalid, must be removed from the vessel. ()

077. ENFORCEMENT.

All operators of vessels as defined in this chapter must ensure their vessel is in compliance with the provisions of this chapter when launched upon the public waters of the state of Idaho. Non-compliance with the provisions of this chapter will result in possible assessment of penalties as described in Sec. 67-7033, Idaho Code, the Idaho Safe Boating Act. ()

078. -- 999. (RESERVED)

**26.01.37 – RULES GOVERNING TEST PROCEDURES AND INSTRUMENTS
FOR NOISE ABATEMENT OF OFF HIGHWAY VEHICLES**

000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-7125, Idaho Code to promulgate rules to effectuate the purposes of and aid in the administration of Section 67-7125, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.37, “Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles.” ()

02. Scope. This chapter establishes rules to effectuate the purposes of and aid in the administration and enforcement of Section 67-7125, Idaho Code. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

As used in this chapter: ()

01. All Terrain Vehicle (ATV). Any recreation vehicle with three (3) or more tires, under eight hundred fifty (850) pounds and less than forty-eight (48) inches in width, having a wheelbase of sixty-one (61) inches or less, traveling on low pressure tires, less than ten (10) pounds per square inch (psi). ()

02. A-Weighting Scale. A sound filtering system contained in a sound meter which adjusts (weights) the incoming sound energy to approximate human hearing. ()

03. Calibrator. A device used to standardize the reading of a sound level meter. ()

04. CC. The displacement (size) of an engine in cubic centimeters. The cc's of an engine refers to the piston displacement or engine size. ()

05. Db or Decibel. A unit used to measure the amplitude of sounds. As a sound measured in decibels increases, so does its loudness. ()

06. Off Highway Vehicle (OHV). Any ATV or motorbike as defined in Section 67-7101, Idaho Code, used off public highways but excluding those vehicles used exclusively on private land for agricultural use or used exclusively for snow removal purposes. These vehicles, together with others not covered by these rules, are sometimes commonly known as off-road vehicles or ORMV's. ()

07. Operator. Any person who is in physical control of an OHV. ()

08. Red-Line Speed. The lowest numerical engine speed included in the red zone on the OHV tachometer or prescribed by the manufacturer as compiled in the “Off-Highway Motorcycle and ATV Stationary Sound Test Manual” published by the Motorcycle Industry Council, Inc. ()

09. Revolutions per Minute (RPM). The number of times the crankshaft of an engine revolves in one (1) minute. ()

10. Sound Level Meter. An instrument used for measuring sound levels, which includes a microphone, an amplifier, and meter with frequency weighing networks, such as the A-weighting scale. ()

11. Tachometer. A device used to measure RPM of an engine. Tachometers used to obtain sound level measurements may be permanently affixed to the OHV or may be portable units such as hand-held electric, vibrating reed, or inductive tachometers. ()

011. -- 049. (RESERVED)

050. TEST PROCEDURE.

01. Test Site. The test site must be a flat, open surface free of large reflecting surfaces, other than the ground, such as parked vehicles, signboards, or hillsides located within sixteen (16) feet of the (OHV) being tested

and the location of the microphone of the sound level meter. ()

a. Ambient sound level. The ambient sound level, including wind effects, at the test site due to sources other than the OHV being measured must be at least ten (10) dB lower than the sound produced by the OHV under test. ()

b. Wind speed. Wind speed at the test site must be less than twenty (20) miles per hour. ()

c. Persons in test area. While making sound level measurements, not more than one (1) person other than the operator, the measurer, and the assistant, if necessary, may be within ten (10) feet of the OHV under test or the microphone of the sound level meter, and that person must be directly behind the measurer on a line through the microphone of the sound level meter and the measurer. ()

02. Test Surface. The surface of the ground within the test area must be paving or hard packed earth, level within an average slope of five (5) inches per foot and must be free of loose or powdered snow, plowed soil, grass of a height greater than six (6) inches, trees, or other extraneous materials. ()

03. Position of OHV. ()

a. For two (2) wheeled OHV's, the operator may sit astride of the OHV, in normal riding position with both feet on the ground. If this is not possible because of the seat height of the OHV, an assistant may hold the OHV by the forks, front wheel, or handlebars so that it is stationary with its longitudinal plane of symmetry vertical. If an assistant is not available to assist in holding the OHV upright, the operator may use a box, rock or other object to rest his feet upon to steady the OHV, so long as the OHV longitudinal plane of symmetry is vertical and stationary. ()

b. For three (3) wheeled and four (4) wheeled ATV's, the operator may sit in the normal riding position with one (1) or both feet on the footrests. ()

04. Operation of OHV. ()

a. If the OHV has a neutral gear, the operator must run the engine with the gear box in neutral at a speed equal to one-half (1/2) of the rated engine speed or one-half (1/2) of the red line speed specified by the manufacturer as compiled in the "Off Highway Motorcycle and ATV Stationary Sound Test Manual." ()

b. If the OHV has no neutral gear, it must be operated either with the rear wheel(s) at least two (2) inches clear of the ground or with the drive chain or belt removed, or the clutch, if the OHV is so equipped, disengaged. ()

05. Engine Temperature. The engine of the OHV being tested must be at a normal operating temperature during the test. ()

051. -- 099. (RESERVED)

100. MEASUREMENT.

01. Sound Level Meter Settings. The sound meter must be set for the A-weighting scale and may be set for either slow or fast dynamic response. ()

02. Exhaust Outlets. Tests must be made on each side of the OHV having an exhaust outlet. ()

03. Location of the Microphone of the Sound Level Meter. ()

a. The microphone of the sound level meter must be located twenty (20) inches - one-half (1/2) inch behind the exhaust. If there is more than one (1) exhaust outlet per side, the microphone of the sound level meter must be located with reference to the rear most outlet. ()

b. The microphone of the sound level meter must be within one-half (1/2) inch of the height of the exhaust outlet. ()

c. The microphone of the sound level meter must be at a forty-five (45) degree - ten (10) degree angle to the normal line of travel of the OHV. ()

d. The longitudinal axis of the microphone of the sound level meter must be in a plane parallel to the ground plane. ()

e. The axis of the microphone of the sound level meter must be oriented as specified for field response by the manufacturer. ()

04. Attachments Prohibited. No wire or other rigid means of distance measurement may be attached to the sound level meter measuring system. ()

05. Sound Level. The sound level recorded must be that measured during steady state operation at the engine speed specified in Subsections 050.04 and 050.05 of this chapter, two hundred (200) RPM, measured on the loudest side of the OHV. The test speed in RPM must also be recorded. ()

06. Calibration. Calibration of the sound level meter using a sound level calibrator with an accuracy of one-half (1/2) dB must be made immediately before the first test of each day. Field calibration should be made at intervals of no more than one (1) hour. ()

101. -- 149. (RESERVED)

150. EQUIPMENT.

01. Sound Level Meter. A type one (1) sound level meter, which generally can provide the most accurate measurements, must be used for certification of exhaust systems and for law enforcement purposes. ()

02. Tachometer. A hand-held tachometer of the type described in Subsection 010.11 must be used if the OHV does not have a permanently affixed tachometer. ()

03. Calibrator. A calibrator appropriate for use with the sound level meter must be used to calibrate the sound level meter. ()

04. Manual. Persons measuring sound levels for law enforcement purposes must use the "Off-Highway Motorcycle and ATV Stationary Sound Test Manual," published by the Motorcycle Industry Council, Inc. for current information concerning manufacturer's specifications for OHV operation. ()

151. -- 999. (RESERVED)